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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/074,484
Filing Date: February 11, 2002
Appellant(s): ANDERSEN ET AL.

Timothy N. Trop (Reg. No. 28,994)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/16/2009 and 09/01/2009 appealing from the Office action mailed 04/13/2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The amendment after final rejection filed on 06/09/2009 has been entered.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

B. Whether claims 8-12, 14, 16, and 24-~~25~~ are unpatentable under 35 U.S.C. §
103 (a) over Stautner in view of Farwell and further in view of Boyer.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,172,677 B1	STAUTNER et al.	01-2001
5,650,831	FARWELL	07-1997

**"IEEE 100: The Authoritative Dictionary Of IEEE Standards Terms",
Standards Information Network IEEE Press, seventh edition (December 2000), pp
1009-1010**

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 6-7, 17, 20, 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stautner (US 6,172,677) in view of Farwell (US 5,650,831).

Regarding claim 1, Stautner discloses a method comprising providing a television program schedule includes a listing for a program (e.g. Clear and Present Danger, NBA: Houston Rockets vs. Boston Celtics, etc.) that has supplemental content (e.g. Pizza Hut order, or additional digital content, chat content, etc. – see include, but are not limited to, figures 2, 4-5, and col. 2, line 64-col. 3, line 9; col. 3, lines 40-67). Thus, a program schedule that includes a listing for a program (e.g. program schedule that includes listing for “Clear and Present Danger”, “NBA:...”, chat content, etc. –figure 2-5) that has supplementary content (merchandise content, order information, scores, chat content, or additional digital content, etc.) must be created so that a supplemental content (e.g. Pizza Hut order information, score of a game, chat content, etc.) is displayed with “Clear and Present Danger”, NBA game, or talk show, etc. on the program guide

Stautner further discloses the “supplemental content provided as an enhancement transmitted in association with the television program” (interpreted as additional digital information, web address, or advertising information is provided in VBI signal or provided as a portion of the television program or it is interpreted as when a television program is displayed on television window 100, the viewer selects score information, order information, etc. which is tied to the television program displayed on the television window, the order information, or score, or other content link to the selected icon is transmitted and displayed in association with the television program displayed in television window – see include, but are not limited to, figure 5, col. 1, lines

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55-61, col. 2, line 49-63, col. 3, lines 50-65, col. 4, lines 21-28, col. 5, lines 15-67, col. 6, line 50col. 7, line 13).

Stautner further discloses associating a first predetermined unique symbol with a first type of the supplementary content to indicate a one screen interactivity mode to display first interactive content and the television program on a first screen by a processor (interpreted as embedding a symbol such as rectangular 40 for Pizza Hut order information, square 80 for sport Stat, etc. , the symbol/icon, selection of icon on the screen provide an automatically dial out, and displaying embedded browser/one screen interactivity mode to display first interactive content such as order information, sport scores, team standing, etc. and television content by a processor. For example, selection a score game icon to display embedded browser including game status, score, television content on one screen (see include, but are not limited to, figures 2,5, col. 3, lines 53-67, col. 4, lines 30-35, col. 5, lines 15-50, col. 6, line 50-col. 7, line 15).

Stautner further discloses associating a second predefined unique symbol associated with a second type of the supplemental content (e.g., symbol for television and chat) and two screen interactivity mode to display, a on a second screen, second interactive content synchronized to the television program on the first screen, or to indicate a two-screen static web mode to display, on the second screen, static content related but not synchronized to the television program on the first screen by the processor (e.g., television displaying on television screen for displaying television content for ABC news and second screen for displaying chat content or other content (see include, but are not limited to, figures 2-3, col. 5, lines 25-30, col. 7, lines 35-50).

Stautner also discloses providing the symbol in association with the listing in the program schedule such as circle symbol 30 with Talk show in program schedule, rectangular symbol 40 with “Clear and Present Danger” in program schedule, etc. – see include, but are not limited to, figures 2, 4) reads on the claimed feature “providing a predetermined unique symbol in association with the listing in the program schedule. However, Stautner is silent about predefined unique symbol to indicate two-screens mode.

Farwell discloses unique symbol to indicate two-screens mode (PIP icon 1328 - see include, but are not limited to, figure 13, col. 18, lines 20-29). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stautner with the teaching as taught by Farwell in order to yield predictable result such as allow user to display content in desired mode quickly.

Regarding claim 4, Stautner in view of Farwell discloses a method as discussed in the rejection of claim 1. Stautner further discloses the first predetermined unique symbol is a text string (e.g. text string ESPN, NBA, etc. – figures 2, 4-5).

Regarding claim 6, Stautner in view of Farwell discloses a method as discussed in the rejection of claim 1. Stautner further discloses the first predefined unique symbol is a graphic symbol (e.g., rectangular symbol 40, star symbol 60, etc. – figures 2, 4-5).

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Regarding claim 7, Stautner in view of Farwell discloses a method as discussed in the rejection of claim 1. Stautner further discloses the first predetermined unique symbol is an image (met by the rectangular image, star image, etc. – figures 2,4-5).

Regarding claim 17, Stautner discloses a method comprising:

distributing a television program to an audience, wherein the program has supplemental content (interpreted as distributing a television program such as Talk Show: Politics, ABC evening news, etc. to the user, the program has chat content, merchandise information, sport statistic information, etc. – see figures 2-5, col. 5, lines 36-50; col. 6, lines 25-60);

Stautner further discloses the “supplemental content provided as an enhancement transmitted in association with the television program” (interpreted as additional digital information, web address, or advertising information is provided in VBI signal or provided as a portion of the television program or it is interpreted as when a television program is displayed on television window 100, the viewer selects chat session which is tied to the television program displayed on the television window, the chat content is transmitted and displayed in association with the television program displayed in television window – see include, but are not limited to, col. 1, lines 55-61, col. 2, line 49-63, col. 3, lines 50-65, col. 4, lines 21-28, col. 5, lines 15-67, col. 7, ines 35-55).

distributing the supplemental content to the audience by a processor (interpreted as distributing chat content, merchandise content, sports statistic content, etc. to the

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user by central processor, wherein the type of the supplemental content such as chat is associated with circle symbol, merchandise is associated with rectangular symbol, sport statistics is associated with a square symbol, etc. – see figures 2-5, col. 5, lines 15-35; col. 6, lines 35-60);

the limitations that corresponding to the limitations of claim 1 are analyzed as discussed in the rejection of claim 1.

Regarding claim 20, Stautner in view of Farwell discloses the method as discussed in the rejection of claim 17. Stautner in view of Farwell further discloses the second predefined unique symbol is a text string (e.g., AOL, chat, title, in Stautner: figures 2-4 or PIP in Farwell: figure 13).

Regarding claim 22, Stautner in view of Farwell discloses the method as discussed in the rejection of claim 17. Stautner in view of Farwell further discloses the second predefined unique symbol is a graphic symbol (e.g., circle symbol for chat: Stautner: figures 2-4; PIP symbol in Farwell: figure 13).

Regarding claim 23, Stautner in view of Farwell discloses the method as discussed in the rejection of claim 17. Stautner in view of Farwell further discloses the second predefined unique symbol is an image (e.g., image for chat: Stautner: figures 2-4; PIP image in Farwell: figure 13).

3. Claims 8-12, 14, 16 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stautner (US 6,172,677) in view of Farwell and further in view of Boyer et al. (US 6,268,849 – hereinafter Boyer).

Regarding claim 8, Stautner in view of Farwell discloses a method as discussed in the rejection of claim 1. Stautner further discloses information is extracted from a received signal (col. 3, line 59-col. 4, line 29). However, Stautner does not specifically disclose distributing the program schedule.

Boyer discloses distributing a program schedule (distributing the television program listings with embedded real-time data to the user's multimedia system in the form of web pages-see include, but are not limited to, col. 2, lines 49-65, col. 5, lines 1-12, col. 6, lines 1-3, col. 9, lines 5-20, figures 1, 9). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stautner in view of Farwell to use the teaching of distributing program schedule as taught by Boyer in order to minimize memory space required to process the program schedule at the receiver, or in order to allow user to access the program schedule at remote locations (col. 2, lines 49-65).

Regarding claim 9, Stautner in view of in view of Farwell and Boyer teaches a method as discussed in the rejection of claim 8. Stautner also discloses the teaching of various text-based system for providing information on television shows, information found in a local newspaper, etc. in the Related Art (col. 1, lines 15-28). Stautner further discloses a

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program schedule with unique symbol. However, Stautner does not specifically disclose printing the program schedule includes the second symbol in the program schedule in the publication. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stautner in view of Farwell and Boyer to use the teaching of printing the program schedule with symbol (program schedule described in Stautner) in the publication (e.g. local newspapers, patent publication, etc.) in order to expand distribution of program schedule includes symbol to users in different ways (e.g. to include publication readers), thereby helping the readers to make decision more accurate based on information about supplemental content associated with the program listing provided.

Regarding claim 10, Stautner in view of Farwell and Boyer teaches a method as discussed in the rejection of claim 8. Stautner already discloses program schedule includes predetermined unique symbol as discussed in the rejection of claim 1 (also see figures 2-5). Stautner does not specifically disclose transmitting the program schedule.

Boyer discloses transmitting the program information listing with embedded real time data to the user's multimedia system in the forms of web pages (see including, but is not limited to, col. 2, lines 49-65, col. 9, lines 5-20) reads on the transmitting program schedule. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stautner to use the teaching of distributing program schedule as taught by Boyer in order to minimize memory space required to

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process the program schedule at the receiver, or in order to allow user to access the program schedule at remote locations (col. 2, lines 49-65).

Regarding claim 11, Stautner in view of Farwell and Boyer discloses a method as discussed in the rejection of claim 10. Stautner further discloses the icons (symbols) may be animated and have three dimension looks or arrangement to them (col. 7, lines 14-15). The icons are placed in the program schedule by the content provider which presents prompts to a user for action, the information is extracted from the received signal (col. 3, lines 40-65; col. 4, lines 15-60). Inherently, the data (e.g. icon, information) is transmitted which when accessed by a machine (e.g. processor using software) causes the machine to display an animated version of the second predefined unique symbol so that the icons are animated.

Regarding claim 12, Stautner in view of Farwell and Boyer discloses a method as discussed in the rejection of claim 8. Stautner discloses providing the second unique symbol in association with the listing in the program schedule (e.g. circle symbol 30 in association with Talk Show: Politics – figures 2-5). However, Stautner does not specifically disclose making the program schedule available on the World Wide Web.

Boyer further discloses making the program schedule available on the World Wide Web; and providing embedded real time data (e.g. real time data 650) association with the listing in the program schedule on the World Wide Web (col. 2, lines 49-65, col. 5, lines 45-67, col. 9, lines 5-19, figure 1). Therefore, it would have been obvious to one

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of ordinary skill in the art at the time the invention was made to modify Stautner in view of Farwell to use the teaching of making the program schedule available on the World Wide Web (web page) in order to allow user to access the program information listings and embedded real time at remote locations (col. 2, lines 55-66) thereby improve convenience for user.

Regarding claim 14, Stautner discloses a method comprising:

the program schedule comprising:

a first listing for a television program that has supplementary content provided as an enhancement transmitted in association with the television program (e.g. listing for a program that has supplemental content such as pizza Hut, or score, etc. provided as enhancement transmitted in associated with the television program— figures 2, 4-5 and discussion in the rejection of claim 1);

a second listing for a television program that has supplementary content provided as an enhancement transmitted in associated with the television program (e.g., listing for television program that has supplementary content such as chat content provided as an enhancement transmitted in associated with the television program – figures 2-4 and discussion in the rejection of claim 1);

a first predefined unique symbol in association with the first listing (e.g., star symbol, square symbol, etc. in association with "NBA..", "Clear and present danger"..., and a second predefined unique symbol associated with the second listing (e.g., circle

symbol for chat session associated with Talk Show (see include, but are not limited to, figures 2-5 and discussion in the rejection of claim 1.

Stautner also discloses displaying the program schedule with the icons on a display screen (figures 2-5, col. 4, lines 30-40, col. 6, lines 7-60). Inherently, the program schedule must be sent to a display before it display on the display screen.

For limitations that correspond to the limitations in claim 1 are analyzed as discussed in the rejection of claim 1.

Stautner also discloses receiving information in the received signal (col. 3, lines 50-67). However, Stautner does not specifically disclose receiving a program schedule.

Boyer discloses receiving a program schedule (receiving program information listings and embedded real time in the form of web pages-see include, but are not limited to, col. 2, lines 49-65, col. 5, lines 1-12, col. 6, lines 1-3, col. 9, lines 5-20, figures 1, 9). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stautner in view of Farwell to use the teaching of receiving program schedule as taught by Boyer in order to minimize memory space required to process the program schedule at the receiver; or in order to allow user to access the program schedule at remote locations (col. 2, lines 49-65).

Regarding claim 16, Stautner in view of Farwell and Boyer discloses a method as discussed in the rejection of claim 14. Stautner further discloses the icons and other data is received (col. 3, lines 45-65, col. 5, lines 16-19; col. 6, line 62-13). Further the icons may be animated and have three dimensional looks or arrangement to them (col.

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6, line 62-col. 7, line 15). Thus, an animated version of the first predetermined unique symbol (embedded icons) is inherently received and sent to the display so that the animated icons are displayed on the screen.

Regarding claim 24, the limitations of the apparatus as claimed correspond to the limitations of the method as claimed in claim 14, and are analyzed as discussed with respect to the rejection of claim 14, Stautner further discloses a display component (e.g. large screen monitor or monitors with all sizes) is coupled to the receiver (e.g., computer system) to program schedule and the symbols are displayed on the monitors (see col. 1, lines 36-col. 2, lines 23). Furthermore, Boyer also discloses user multimedia receiver (e.g. PCTV, desktop computer, etc.) receive program schedule webpage and provides the program schedule webpage to the monitor for display (see figures 1, 9, col. 5, lines 31-44; col. 9, lines 5-20).

Regarding claim 25, Stautner in view of Farwell and Boyer discloses a method as discussed in the rejection of claim 24. Stautner further discloses an input device to receive a signal corresponding to selection of the predetermined unique symbol on the display device by a user (interpreted as a receiver in the computer system for receiving signal in response to user selection of an icon (for example, IR/RF/or electrical signal receiver at computer system for receiving IR/RF/or electrical signal from user mote control, keyboard or any user input device in response to user selection of an icon on the screen (e.g. circle icon); and

a content delivery component to provide the supplementary content in response to the signal (e.g. component to provide chat content, merchandise information, etc.) to the display for display on the screen in response selection signal (see including, but is not limited to, col. 6, lines 25-67, figures 2-3).

(10) Response to Argument

Are claims 1, 4, 6-7, 17, 20, and 22-23 unpatentable under 35 U.S.C. § 103(a) over Stautner in view of Farwell (page 3 of amended grounds of rejection).

Appellant argues the claim requires associating a second predefined unique symbol with a second type of supplementary content. This is not done in the cited reference. The PIP symbol has nothing to do with supplementary content and only has to do with the original content and whether content is displayed in two images. Further, it is required that the predefined unique symbol is provided in association with a listing and a program schedule. This also does not happen (page 3, paragraph 2 of amended ground of rejection). This argument is respectfully traversed.

It is noted that according to "IEEE 100 The Authoritative Dictionary of IEEE Standards Terms", seventh edition, published by Standards Information Network IEEE Press in 2000, (pp 1009-1010) (see attached pages), the term "screen" is defined as: (3) "a screen may be a portion of a physical device or may occupy the entire physical area of

the display device. (4) The portion of a display that is visible on the display device. A screen may show part of a page, an entire page, or several pages.

It is further noted that the Examiner need not give patentable weight to non functional descriptive material absent a new and unobvious functional relationship between the descriptive material and the substrate. See *In re Lowry*, 32 F.3d 1579, 1583-84 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 1338 (Fed. Cir. 2004) and BPAI recent final decision in *Ex parte Curry*, 2005-0509 (BPAI 2005), 84 USPQ2d 1272 (Affirmed, Rule 36, Fed. Cir., slip op. 06-1003, June 2006). In this case, the limitation “first predefined unique symbol” or “second predefined unique symbol” are drawn to descriptive material not functionality related to the method. Thus, the Examiner does not need to give patentable weight to nonfunctional descriptive material, as it “will not distinguish the invention from the prior art in terms of patentability.” *In Re Nga*, at 1339. Regardless of whether the combination of the references teach “first predefined unique symbol” or “second predefined unique symbol”, the limitation will not differentiate the claimed invention from the prior art.

Nonetheless, the Examiner has found that the teaching of associating a symbol for television and chat, etc. with second type of supplemental content such as television content and/or chat content of Stautner meets the claimed “associating a second predefined unique symbol with a second type of supplementary content” (see figures 2-3, col. 5, lines 25-30, col. 7, lines 35-50 and final office action, pages 7-8, bridge paragraph). Stautner also discloses unique symbols (see figures 2-5) are

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provided in association with listings on a program guide screen with program schedule reads on the predefined unique symbol is provided in association with a listing and a program schedule.

Stautner's disclosure of two windows/portions on a display device (see include, but not limited to, figure 3) is read on "two-screen interactivity mode" recited in the claim.

Appellant also argues Farwell has nothing to do with two-screen interactivity mode on the display. The two screen static web mode is described in the present specification as involving two screens, a television screen and a computer display that are used to present the content in conjunction with the program. This does not happen in the cited reference.... he does not have anything that indicates that the supplementary content needs two different devices to display it (page 3, paragraph 3 of "amended ground of rejection..."). This argument is respectfully traversed.

According to M.P.E. P 2106 II, C, "limitations appearing in the specification but not recited in the claim should not be read into the claim. E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily). In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989). In this case, neither limitation "the two-screen

static web mode involving two screen, a television screen and a computer display that are used to present the content in conjunction with the program" nor "the supplemental content needs two different devices to display it..." is recited in the claims.

In the final office action, the examiner relies on Stautner's disclosure of interactivity display screen with multiple screens for displaying chat content, interactive program guide content, television content, and other supplementary content (see figures 2-5, col. 5, lines 25-30, col. 7, lines 35-50 and discussion in Final office action, pages 7-8) meets the claimed "two screen interactivity mode" (please also see definition of "screen" according to IEEE 100 discussed above).

In response to appellant's arguments against the references individually (i.e., Farwell has nothing to do with two-screen interactivity mode on the display – page 3, paragraph 3 of "amended ground rejection..."), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, the Examiner relies on Stautner for the teaching of associating predefined symbol with a type of supplementary content; and two-screen interactivity mode; program schedule that includes a listing for a television program. The examiner relies on Farwell for the teaching of a symbol to indicate two-screen mode (PIP symbol - figures 13-14A).

Therefore, the combination of Stautner with the teaching of symbol indicate two-screen mode taught by Farwell, meets all features as recited in claims 1, 17 .

B. Are claims 8-12, 14, 16, and 24-25 unpatentable under 35 U.S.C 103 (a) over Stautner in view of Farwell and further in view of Boyer? (pages 3-4).

Claim 14:

Appellant argues the cited reference to Farwell has nothing to do with a second listing for a television program that has supplementary content (pages 3-4, bridge paragraph of "amended ground of rejection..."). This argument is respectfully traversed.

As discussed in the Final Office action, pages 6-8, 11-12, the Examiner relies on Stautner for the teaching of a second predefined unique symbol associated with a second listing; the second listing is a listing for a television program that has supplementary content. Farwell is relied on for the teaching of a symbol to indicate two-screen mode.

Claim 24:

Appellant argues "likewise, reconsideration of the rejection of claim 24 is requested" (page 4 of "amended ground of rejection"). Examiner 's response to argument of this claim is similar to examiner's argument to claim 1 and/or 14 above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Son P Huynh/

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/Christopher Grant/

WQAS, TC 2400